

CHAPTER 3.

LICENSING

3.1 Who must be licensed. Any person who is engaged in the business of buying, selling or exchanging motor vehicles or otherwise engaging in business as a dealer, directly or indirectly, including by consignment, must apply for and receive a general distinguishing number issued by the Department. This is commonly referred to as the "GDN." See Section 3.3 for certain exemptions from licensure. A person who wants to sell **new** motor vehicles must acquire a franchised dealer license from the Motor Vehicle Division in addition to the GDN.

3.2 Types of licenses.

a. GDN License. GDN licenses are broken down into several categories. A GDN is the basic dealer license that allows a person to buy, sell or exchange the type of used vehicle for which the GDN is issued. For example, if a dealer wants to sell both used motorcycles and used automobiles, that dealer must have both a motorcycle GDN and a motor vehicle GDN. Any GDN licensee may use dealer's temporary tags, buyer's temporary tags and metal dealer license plates only on motor vehicles for which they are licensed to sell. The dealer must be bonded (See 3.10) unless he or she is a franchised dealer or a trailer dealer. The following are the different types of GDNs that must be obtained to sell that particular type of vehicle:

1. Motor Vehicle: This dealer may buy, sell or exchange any type of used vehicle other than motorcycles, utility trailers or semi-trailers. A separate GDN must be obtained for these categories.

2 Motorcycle: This dealer may buy, sell or exchange any type of used motorcycle, motor scooter, or ATV.

3. Non-motorized Travel Trailer (towable recreational vehicle): This dealer may buy, sell or exchange any type of used travel trailer.

4. Utility Trailer/Semi-Trailer: This dealer may buy, sell or exchange any type of **new or** used utility trailer or semi-trailer. This is the only GDN that permits the sale of new vehicles without a franchised dealer license.

b. Wholesale Dealer License. A wholesale GDN may be obtained if the dealer sells used vehicles only to other licensed dealers. A wholesaler may not sell retail. There is no license category for a wholesale new vehicle dealer.

c. Wholesale Motor Vehicle Auction License. This license allows an entity to offer vehicles for sale by bid only to licensed dealers at a bona fide auction at a

permanent location. Only one auction GDN may be issued for a particular location. No other entity may hold a license at the auction location.

d. Franchised Dealer License. In addition to a GDN, if a dealer wishes to buy, sell, or exchange new motor vehicles, he or she must obtain a franchised dealer license for each separate and distinct showroom that will sell new motor vehicles or provide warranty service. A franchised dealer may operate several locations within a city limit with one GDN. If a dealer relocates a showroom, an application for a new franchised dealer license must be made for the new location, but the dealer will be able to keep the same GDN if the move is within the same city limits. If a franchised dealer wishes to add a line-make to their current licensed location, they submit a license amendment form so the new line can be added to their franchise license.

The same rules apply to franchised dealers for GDNs. They may buy, sell or exchange any type of used vehicle within the particular type of GDN they possess. For example, a Ford dealer may be franchised to sell new Fords and have a motor vehicle GDN to sell used cars. However, they may not sell used motorcycles (of any line-make) without a motorcycle GDN. A dealer who has a general GDN may not sell used travel trailers without a separate GDN for the travel trailers.

e. Independent Mobility Motor Vehicle Dealer. This license allows a dealer to offer to sell new mobility motor vehicles. A "mobility motor vehicle" is a motor vehicle that is designed and equipped to transport a person with a disability.

f. Converter License. This license is required of persons who assemble, install or affix a body, cab or special equipment to a chassis prior to the retail sale of a vehicle, or who substantially add, subtract from or modify a previously assembled or manufactured motor vehicle unless the resulting vehicle is a motor home, ambulance or fire-fighting vehicle. Converters cannot sell converted new motor vehicles directly to the retail public, including cities and municipalities. Only a franchised dealer for the underlying line-make of the converted vehicle may sell the vehicle at retail. The requirements for obtaining a converter license can be rather complex and depend on the type of conversion performed. See Section 9 for more information.

g. Manufacturer License. This person manufactures or assembles new motor vehicles for sale within this State by franchised dealers, regardless of the location of the factory. This applies to all types of motor vehicles, whether they are cars, motorcycles, travel trailers, motor homes, ambulances, fire trucks or other types of service vehicles. They may use manufacturer metal license plates exclusively for testing vehicles or loaning a vehicle to a consumer in connection with a Lemon Law case. Manufacturers may not sell directly to the retail public, including cities and municipalities.

h. Distributor License. This person distributes and/or sells new motor vehicles to franchised dealers within this State and is not a manufacturer.

i. Representative License. This person acts as an agent, employee or representative of a manufacturer, distributor or converter and performs duties in this State relating to promoting the distribution and/or sale of new motor vehicles or contacts dealers in this State on behalf of a manufacturer, distributor or converter. This license allows the representative to promote the product, but not sell it as selling must be done through a licensed franchised dealer.

j. Lessor License. This license is required of a person who, under the terms of a lease agreement in excess of 180 days, gives another person the right to possession and use a motor vehicle that is titled in the name of the lessor. No bond is required.

A franchised dealer does not need a lessor license to lease the line-make of vehicles for which they have a franchise license. Any state or federally chartered financial institution or a regulated subsidiary of a state or federally chartered financial institution is not required to obtain a lessor or lease facilitator license. Any entity exempt from the licensing requirement still needs to observe the record-keeping requirements found in the Lease Rules. To read more on the Lease Rules, see Chapter 8 on Leasing.

A dealer may not have the words "lease" or "leasing" in his or her company name unless they also qualify for and obtain a lessor or a lease facilitator license.

k. Lease Facilitator License. This license allows a person to hold himself or herself out to be a leasing agent or leasing company. This person solicits someone to enter a contract of agreement to lease a vehicle. A lease facilitator never has the leased vehicle titled in his or her name but merely acts as an agent between the seller of a vehicle and the lessor in procuring a lessee with a lease contract. A lease facilitator by definition is not the lessor or owner of a vehicle, but rather someone who puts the lessor, selling dealer and lessee together.

A lessor licensee does not need to have a lease facilitator license to facilitate leases for themselves. The lessor license includes the ability to facilitate its own leases. However, if the lessor facilitates leases between lessees and *other* lessors, they would need a lease facilitator license in addition to their lessor license.

3.3 Exemptions. A person is not required to obtain a dealer GDN if the person:

- a.** Is selling or offering to sell fewer than five vehicles in the same calendar year *if the vehicles are owned and registered in that person's name*. If the vehicles are not owned and registered in that person's name, they would need a license to sell even one vehicle; or
- b.** Is a federal, state, or local government agency selling a vehicle; or
- c.** Is selling or offering to sell a vehicle the person acquired for personal or business use to a person other than a retail buyer if the sale or offer is not made to avoid the law; or

d. Is selling a vehicle in which the seller holds a security interest at a forced sale, in a manner provided by law; or

e. Is acting under a court order as a receiver, trustee, administrator, executor, guardian or other appointed person; or

f. Is an insurance company selling a vehicle acquired from the owner as a result of paying an insurance claim; or

g. Is selling an antique passenger car or truck that is at least 25 years of age; or

h. Is a collector selling a special interest vehicle that is at least 12 years of age. A special interest vehicle is defined in Transportation Code §683.077(3) as a motor vehicle that has not been changed from the original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

3.4 Licensing Periods All licenses are now good for two years from the date of issuance. The license fee for one year will remain the same but the fee for two years will have to be paid at one time for those dealers once their license period is increased to the two year period. Applicants are reminded that they must not commence business until the license becomes effective. Renewal notices are sent to the mailing address in a licensee's file between **75-90** days before the expiration period. If the licensee has not informed the agency of a change of address, the renewal process will be delayed.

3.5 License Purveyors. A license purveyor is someone who assists licensees in applying for and maintaining their license to the point where the licensee does not receive communication directly from the MVD. In July 2002, the Texas Motor Vehicle Board promulgated a rule that condemned the practice of license purveyors imposing themselves between the license applicants and the application. The rule states that applications for licenses will only be accepted for processing if filed by the applicant or the applicant's designated attorney or CPA. License fees paid by check must be drawn on the applicant's bank account; required information will not be accepted if it is on the letterhead of anyone other than the applicant or the applicant's attorney or CPA; information will not be given to or follow-up information requested from anyone other than the applicant or the applicant's attorney or CPA; new license numbers will not be released to anyone other than the new licensee or the new licensee's attorney or CPA.

3.6 Obtaining More than One GDN or License. Questions often arise as to when a dealer needs an additional GDN. The following are some examples of instances in which a dealer would need to obtain more than one license:

- Franchised dealers need a franchise license in addition to the GDN.
- Franchised dealers must obtain a separate franchise license for each location from which new motor vehicle sales are made.

- Dealers who own dealerships in different cities.
- Franchised or independent dealers who wish to sell different types of vehicles (i.e. a motorcycle dealer who wishes to sell trailers as well).

A separate bond is needed for each type of GDN, for example, selling automobiles and motorcycles would require a separate GDN for each category and a separate bond for each GDN. Premises requirements contained in Section 3.7 also affect the number of GDNs a dealer must have.

3.7 Premises Requirements. Dealerships are licensed by location. A dealer needs only one GDN for each location from which he or she buys, sells or exchanges vehicles of the same type. However, for legitimate reasons, a dealer may have more than one GDN for a single location.

a. Primary Location. If all of a dealer's locations are situated within the same city limits, a dealer only needs one GDN for each type of vehicle sold. The dealer shall determine and advise the agency which location is designated as his primary location.

b. Supplemental Location. Any additional locations within the same city limits are considered supplemental locations, and while a separate GDN license is not required, the dealer must make sure the agency is notified of all supplemental locations. A nominal fee is required to add a supplemental location. Should a dealer acquire an additional location outside the city boundary, an additional GDN license and bond will be needed. All locations must meet the premises requirements.

c. Different Entities at Different Locations. Some dealers operate their different locations under different entities. For example, a dealer may operate each location under a different corporation or with a different partner. If the entity is not the same, then each entity is considered a different dealer and must have a separate license regardless of where the dealership is located.

3.8 Established and Permanent Location. Each location that a dealer operates must be an established and permanent place of business. To be considered established and permanent, the location must have the minimal premises requirements outlined herein.

(a) Office structure for retail and wholesale dealers. A dealer that files an application for a new license or a supplemental location after May 1, 2008 must conform to the following requirements:

- (1) The office of a retail or wholesale dealer must be located in a building, with connecting exterior walls on all sides, that has been assigned a separate mailing

address by the U.S. Postal Service. The office structure must have at least 100 square feet of interior floor space exclusive of hallways, closets, or restrooms and have a minimum seven foot ceiling.

(2) A dealer's office must comply with all applicable local zoning ordinances and deed restrictions.

(3) A dealer's office must have electricity with adequate heating and lighting.

(4) A dealer's office may not be located within a residence, apartment house, hotel, motel, or rooming house.

(5) A storeroom, closet, stock room, or any other room that is not open to the public may not be designated as the dealer's office.

(6) A route to a dealer's office may not pass through a food preparation area.

(7) The physical address of the dealer's office must be recognized by the U.S. Postal Service or capable of receiving U.S. mail. Licenses and metal dealer plates will not be mailed to any out-of-state address.

(8) A portable-type office structure may qualify as an office only if the structure meets the other requirements and is not a readily moveable trailer or other vehicle.

b. Required office equipment for retail and wholesale dealers. At a minimum, the office must be equipped with: (1) a desk; (2) two chairs; (3) a file cabinet to hold records; (4) Internet access and printer; (5) a fax machine; and (6) a land-based, working telephone listed in the business name or assumed name under which the dealer does business.

c. Number of dealers in one office. Not more than four retail dealers may be located in the same business structure. Not more than eight wholesale dealers may be located in the same business structure. Unless otherwise authorized by the Transportation Code, a retail motor vehicle dealer and a wholesale motor vehicle dealer either of which is established after September 1, 1999, may not be located in the same business structure.

d. Dealer housed with other business. If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from that of the other business, a separate telephone listing, a separate telephone and fax number, and a separate sign for each business is required.

A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a separate lease agreement from the owner of that property. The same

telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment.

e. Sign Requirements.

(1) Business sign requirements for retail dealers. A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the dealer's business name, or assumed name as reflected on the dealer's license, under which the dealer conducts business. The sign may omit terms such as "Inc.," "LLC," "LP," or similar identifiers of the business entity type. The sign must be permanently mounted and must be readable from the street at the address listed on the application for the dealer license. Temporary banners or signs are not acceptable; however, a franchised dealer may, for the purpose of obtaining its license, use a temporary sign or banner if the dealer can show proof that a factory-specific sign is on order that meets the requirements set out in this paragraph.

(2) Business sign requirements for wholesale dealers. A wholesale dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the dealer's business name or assumed name as filed with MVD, under which the dealer conducts business. The sign may omit terms such as "Inc.," "LLC," "LP," or similar identifiers of business entity type. The sign must be permanently mounted on the business property and shall be on the main door to the dealer's office or on the outside of the building housing the office. If the dealership is located in an office building with one or more other businesses and an outside sign is not permitted by the landlord, a business sign permanently mounted on or beside the main door to the dealer's office with letters at least two inches in height is acceptable. Temporary banners or signs are not acceptable.

f. Display area requirements. A wholesale dealer is not required to have display space at the dealer's business premises. A retail dealer must have an area designated as display space that meets the following requirements:

(1) The display area must be located at the dealer's business address or contiguous with the dealer's address. A non-contiguous storage lot is permissible only if there is no public access and no sales activity occurs at the storage lot. A sign stating the dealer's name and the fact the property is a storage lot is permissible.

(2) A dealer's display area must be sufficient to display at least five vehicles of the type for which the dealer is licensed. Those spaces must be used exclusively for that dealer's inventory and may not be shared with another business or a public parking area, a driveway to the office, or another dealer's display area.

(3) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to the use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(4) If the display area is in conjunction with another vehicle dealership, the display area must be separated in such a manner that the inventories of the dealers are readily discernible from each other. The inventory of each dealer must be grouped together and not intermingled and each vehicle in the inventory of a dealer must be clearly marked to identify the dealer offering the vehicle for sale.

(5) If the display area is in conjunction with another business that is not related to the sale or operation of motor vehicles, the display area for the dealer's inventory must be separated from any other parking area by a material object or barricade that is affixed to the ground in a manner that cannot be readily moved by an individual. A permanent sign must be erected that designates the area as reserved for the dealer's inventory with the dealer's name and telephone number on the sign with letters at least six inches in height. When the display area is full, additional inventory vehicles may be parked outside the display area only in an area immediately adjacent to the barricaded area. The additional inventory must be on the licensed premises and not in any restricted area such as right-of-way or public sidewalks. Any additional inventory not within the barricaded area must be identified by a sign with the dealer's name and telephone number that clearly distinguishes the inventory from any public or employee parked vehicles.

(6) The display area must be adequately illuminated if the dealer is open after sundown so that vehicles for sale can be properly inspected by any prospective customer.

(7) With the approval by the MVD division director or the director's designee, the display area may be located inside a building.

(8) If the dealer's premises includes gasoline pumps or houses another business that sells gasoline, the dealer's display area may not be part of the parking area for gasoline customers and may not interfere with access to or from the gasoline pumps. The display area may not contain a fuel fill port or any fire prevention access to the fuel tanks.

(9) If a dealer also holds a salvage dealer license, each salvage vehicle that is offered for sale on the premises of the dealer's display area must be clearly and conspicuously marked with a sign that informs the potential buyers that the vehicle is a salvage vehicle. This requirement does not apply to a licensed salvage pool operator.

g. Lease or Ownership of the Property. A dealer must own the property where the business is conducted or have a written lease for at least the term of the license on that property. If the premises from which a dealer conducts business, including any display area that is not owned by the dealer, the dealer must maintain a lease that is continuous with the period for which the dealer's license will be issued. That lease agreement must be on a properly executed form containing at a minimum: (A) the names of the lessor and lessee; (B) the period of time for which the lease is valid; and (C) the street address or legal description of the property. If only a legal description of the property is provided, the dealer must attach a statement that the property description in the lease agreement is the dealer's street address.

h. Business Hours.

(1) Business hours for retail dealers. A retail dealer's office facility shall be open at least four days per week for at least four consecutive hours per day between the hours of 8:00 a.m. and 8:00 p.m. The dealer's business hours for each day of the week must be posted at the main entrance of the dealer's office that is accessible to the public. The owner or a bona fide employee of the dealer shall be at the dealer's licensed location during the posted business hours for the purpose of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the dealer will resume operations. The dealer must notify the division in writing of any change in the dealer's standard business hours. Regardless of the retail dealer's business hours the dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, answering service, or answering machine.

(2) Business hours for wholesale dealers. A dealer who holds only a wholesale license must post its business hours at the main entrance of the dealer's office. A wholesale dealer shall be at the dealer's licensed location for at least two weekdays per week at least two consecutive hours per day between the hours of 8:00 a.m. and 6:00 p.m. Regardless of the wholesale dealer's business hours the dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, answering service, or answering machine.

i. Dealer must display license. A dealer must display in a conspicuous place at each place of business the dealer license issued by MVD at all times in a manner that is easily readable by the public. If the dealer's license applies to more than one location, a copy of the original license may be displayed in each supplemental location.

3.9 Applying for the General Distinguishing Number License. The first step in applying for a license is to request an application packet for a new license from the MVD. This may be done simply by calling the main number and requesting a packet or going to the TxDMV website and downloading all the application forms found at <http://www.dmv.state.tx.us/whatyouneed/forms/dealer2.htm>. Make sure you download all the necessary forms. If you have received a packet by mail or have the forms downloaded, read the contents carefully. Properly calculate the fees for the license and any metal dealer plates. See the Lease Rules for special requirements for Lessors and Lease Facilitators in Chapter 8.

a. Choose one GDN category per application. You may need more than one type of GDN depending on what you plan on selling. A separate application will be needed for each different category you choose.

b. Complete all Sections, Include all Required Attachments. Review your application several times to make sure you have completed all sections. Incomplete

applications will delay the issuance of your license. Double check that you have attached all required attachments. Failure to provide every item requested will also delay your license approval. Required items to attach to the application include:

1. Financial Statement. You may fill in the form on the application or attach a separate statement or balance sheet. If the applicant is a corporation or a partnership, then the financial statement submitted must be for that entity. If this is a new business, a pro-forma financial statement is sufficient.

2. Ownership and Management Information. This form is provided and you should be sure and give all information requested, such as date of birth, social security numbers, addresses, driver's license number and percentage of ownership, depending on the type of entity.

3. Business Background. In the space provided, give a short statement of your experience in the business world for the last eight years or you may attach a formal resume. This must be completed for the owner/operator, general manager or all partners.

4. Proof of Occupancy. If you own the property, attach a copy of the deed showing the same name as on the application or a copy of a current tax receipt showing the location and name. If you have leased the premises, your lease must be on a properly executed form, signed by both the lessor and the lessee, for at least the term of your license and should clearly identify the property as the same as on your application. If you have subleased the property from the original lessee, you must include the sublease and the original lease documents.

5. Description of Physical Facilities. In the space provided, describe the building size, number of rooms and size of lot.

6. Photographs. These should further illustrate your location as described above. They must show: a) the overall appearance of the business from the street; b) the inside of the office with the desk, phone, chairs and file cabinet; c) the business sign with the name that is on the license and d) the sign announcing your regular business hours to the public.

7. Average Inventory. In the space provided, state approximately how many vehicles and the average value per vehicle you intend to maintain for sale.

8. Number of Employees. Count yourself as one and then add to it any others you plan on hiring or have hired. If applicable, you need to show separately the number of sales, parts, service and administrative personnel.

9. Assumed Name Certificate. If you are operating your dealership under an assumed name, in other words, a different name than the entity that holds the license, (e.g. John Doe d/b/a Doc's Auto Sales, or Doe, Inc., d/b/a Doe's Auto Sales) you must submit an Assumed Name Certificate. You can get the forms and instructions for this

form from your county clerk for sole proprietorships and general partnerships. If you have a corporation or a limited liability company, such as an L.L.P., you need to secure the Assumed Name Certificate from the Secretary of State.

10. Certificate of Incorporation, Limited Partnerships, etc. If the entity applying for a license is a corporation or limited partnership, you must submit a copy of your certificate of formation from the Secretary of State.

11. Map with Detailed Instructions. Draw a legible map in the space provided or attach a map with the location of the dealership pinpointed.

3.10 The bond. New applications are held up more often than not because the bond is not in the proper form or format. Read very carefully the requirements of the bond.

a. Who needs a bond, for what term and what amount? With the exception of franchised dealers, all new applications for motor vehicle, recreational vehicle and motorcycle licenses must be submitted with a surety bond for \$25,000. The bond must be effective for the same term as the license. The bond must always equal \$25,000. In the event a claim is made and the bond is reduced to below \$25,000, a dealer must immediately bring the bond back up to \$25,000. The application will not be approved if the bond is not valid for one year from the last day of the month in which the application is submitted.

b. Names on bond and contents. The names on the bond must match the names on the license exactly. The *original* bond with the embossed seal must be attached, and must show the following:

1. The bond must be signed and dated by the owner/principal of the dealership and by an authorized agent for the bonding company.
2. Effective dates must be equal to the license term.
3. The bond must be issued in the name of the applicant; for example:

For a sole proprietor: John Doe DBA John Doe Motors

For a partnership: (All partners need to be listed)
John Doe and Jane Doe DBA Doe Motors.

For a corporation with no DBA: John Doe, Inc.

For a corporation with a DBA: John Doe Inc., DBA John Doe Motors

4. A proper, original Power of Attorney from the bonding company must also be included with the bond.

5. The bond must be in the approved language. A copy of the approved language is included in the application.

6. The bond must reflect the physical address of the dealership. If the GDN is issued for multiple locations within the same city limits, all physical addresses must be reflected on the bond.

3.11 Phone Listings. The telephone listing in the exact and complete name under which the dealer conducts business must be verifiable through one of the following:

a. A listing in a current telephone directory in the business name and same phone number;

b. A copy of a work order from the telephone company showing the dealer's number;

c. A copy of a recent telephone bill which shows the correct business name and phone number.

3.12 Employer Identification Number. If the applicant is a partnership, corporation, limited liability company, or limited partnership, then an Employer Identification Number (EIN) must be obtained from the Internal Revenue Service and inserted into the application.

3.13 Felony Conviction Question. The Statement of Ownership asks if any person named in the application has ever been convicted of a felony or is presently charged with the commission of any such crime. Answer this question and answer it truthfully. If it is discovered that an applicant lied about a conviction, it is considered a misrepresentation on the application that could result in not only the application being denied, but also denial of future applications, and/or civil penalties. Copies of any and all convictions must be submitted with application.

3.14 Sign and Notarize the Application. After the applicant has double checked to see that all spaces are filled out and all items required are attached, the applicant or its authorized agent needs to sign the application in front of a notary public. Read carefully the affidavit to which the applicant or its agent is swearing. The applicant or its agent is certifying under oath that the applicant has met all the premises requirements; that the applicant or a bona fide employee will be on the location available to the public or the agency during your posted business hours. The applicant agrees to permit the agency to examine the applicant's records during working hours. The applicant or its agent is also swearing that the applicant is the party applying for the license and the applicant is not applying on behalf of someone else and the applicant is not delinquent with child support. If the applicant makes any misrepresentations on the application, the applicant may not

only lose its license but the applicant or its agent may subject itself to civil penalties denial of future applications, and/or criminal prosecution. Original signatures must be submitted.

3.15 Amending a Current License. Any change in the licensed entity, name or ownership of the dealership, addition of a location, deletion of a location, or relocation of the dealership, must be reported to the agency. Failure to notify the agency of changes in address, telephone number, name, type of entity, ownership, or of new locations, within ten (10) days after such change may result in a civil penalty, license revocation, or license suspension.

a. Adding an Additional Location. If a dealer wishes to add a new location and the new location is within the city limits of his currently licensed location, an amendment form must be submitted with the minimal fee of \$25.00. No new or additional GDN is required as long as the vehicle type is the same. If the location for the additional dealership is not in the same city limits as the first location, then a new application must be completed and a different GDN issued for the additional location.

b. Moving to a New Location, Deleting a Location or Closing the Business. Should a dealership move, delete a supplemental location or close business, the agency should be notified as soon as possible, preferably before the change occurs to avoid problems for being incorrectly licensed.

c. Changing the Name or Ownership of the Dealership. To maintain a license, a dealership must have its license, bond and lease all in the same name. The rules require that a dealership notify the agency within 10 days of the change of any name or any ownership change.

d. Changing the Type of Entity of the Dealership. If a sole proprietor incorporates or takes on a partner, the agency should be notified, so the dealer may apply for a license in the name of the new entity if necessary. Failure to do so could result in a fine and suspension of the right to do business.

e. Transfer or Assignment of License. A dealer license issued by the agency is not transferable or assignable. The state-issued license may not be considered part of a buy/sell agreement of a franchised dealership. A license is not automatically transferred by a court order directing the change of the ownership of a licensed dealer. In such cases, the transferee, assignee, buyer or other person receiving the benefit of the dealership is required to apply for a license in his or her own individual or business name and meet all the qualifications for the license.

3.16 Obtaining A Franchise License. Any person who wants to engage in the business of buying, selling or exchanging new motor vehicles and/or servicing or repairing motor vehicles pursuant to the terms of a franchise and a manufacturer's warranty must obtain a GDN. In addition, each facility at which new motor vehicles are sold, displayed or serviced must have a franchise license.

3.17 Service-Only Facilities. Only franchised dealers may open a separate service-only facility to perform warranty work on the line-make they are franchised and licensed to sell. This license is like a franchise license in that it may be subject to protest by other like line-make franchised dealers.

3.18 Protest Area. Existing dealers of the same line-make may have the right to protest the establishment of a new franchised dealership or relocation of an existing one if the requirements of 43 TAC §215.105 et seq are met. Under the Texas Occupations Code, an existing dealer may protest an application for the establishment of a same line-make dealership or the addition of a line to an established dealership, if the proposed dealership is in the same county or within 15 straight-line miles from the existing dealer. An existing like-line dealer located within the same county or within 15 straight-line miles may protest the relocation of a dealership if the proposed relocation site is farther than one mile from the site from which the dealership is being relocated and the relocation site is closer to the existing dealer than the site from which the dealership is being relocated. Notification of these applications is provided to the existing dealer(s) by the Motor Vehicle Division, together with the rules and information concerning protest procedures. The protest period is 15 days from the mailing of notice of eligibility to protest and cannot be shortened or waived.

3.19 Relocating a Franchised Dealership. A franchised dealer may operate several locations within a city limit with one GDN, but a franchise license is required for each separate and distinct showroom that will sell new motor vehicles or provide warranty service. If a dealer relocates a showroom, an application for a new franchise license must be made and received for the new location before opening business, but the dealer will be able to keep the same GDN if the move is within the same city limits.

3.20 Addition or Deletion of a Line. Prior to adding a line to an existing dealership, whether as a new point, an acquisition from an existing dealer or other, a request for a license amendment must be submitted to the Motor Vehicle Division **and** the approval of such addition obtained. Furthermore, any other information such as a deletion of a line, ownership changes, etc., must be submitted promptly.

3.21 Special Requirements or Exemptions for Lessors and Lease Facilitators. Lessors may be located anywhere; lease facilitators must have a physical presence in Texas. A lessor may operate anywhere in Texas with one license; a facilitator must have a license for each physical location from which he or she operates. Lessors and Lease facilitators must apply for a new license whenever they relocate to another city. For relocations within the same city limits, an amendment application is required.

3.22 Cancellation of License. All the requirements that are needed to obtain a license must be maintained throughout the licensing period to keep the license valid. If any of the requirements are allowed to lapse, the dealer's license is at risk of being canceled.

3.23 Denial of Initial or Renewal Application. If a licensee fails to meet or maintain the requirements of a license, the MVD may deny their application for a new license or the renewal of a license. The agency will send to the applicant/licensee a letter advising them of the reasons for non-renewal or denial of the license. The applicant/licensee receiving this letter is advised that they have 20 days to request in writing a hearing on that denial or renewal. Failure to correspond with the MVD within that 20-day time period will be considered a waiver of the applicant/licensee's right to a hearing on the denial of the license.

3.24 Renewing Licenses. MVD will mail out reminder notices for license renewals to licensees at least 75-90 days before the date of license expiration. Failure to receive the renewal notice does not excuse a late renewal. Renewal applications with all required attachments should be submitted to the agency at least 45 days before license expiration to allow for application processing and the issuance of a new license and renewal stickers for metal plates before expiration. If a licensee does not renew his license in a timely manner, it will expire and all privileges, including entering the auction to buy vehicles, are suspended. Failure to renew a license within the time specified will cause a licensee to be assessed a penalty of 50 percent of the application fee amount for each 30-day period the license is expired. Licenses will not be renewed 90 days after the date of expiration, and the licensee will have to submit a new application.

3.25 Applicant's Procedures and Rights. Dealers or applicants who are denied renewal or initial licenses are notified of the denial and given 20 days to appeal the decision by requesting a hearing. If a renewal is denied, the dealership may be able to continue operating until the hearing results are final as long as all requirements for the license continue to be met. Requests are sent to Enforcement for docketing. See Chapter 12 for more information on the hearing process.